

United States Postal Service

§ 501.5

into a strategic alliance or other agreement whereby the third party has access to data related to the security of the system or the third party is a competitor to the Postal Service. Any person or entity seeking to acquire ownership or control of a person or entity authorized under § 501.1 must provide the Postal Service satisfactory evidence that it satisfies the conditions for approval stated in § 501.1. Early notification of a proposed change in ownership or control will facilitate expeditious review of an application to acquire ownership or control under this section.

(b) Any person or entity authorized under § 501.1 must promptly notify the Postal Service when it has a reasonable expectation that there may be a change in the status of its financial condition either through bankruptcy, insolvency, assignment for the benefit of creditors, or other similar financial action. Any person or entity authorized under § 501.1 who experiences a change in the status of its financial condition may, at the discretion of the Postal Service, have its authorization under § 501.1 modified or terminated.

[69 FR 60091, Oct. 7, 2004]

§ 501.4 Burden of proof standard.

The burden of proof is on the Postal Service in adjudications of suspension and revocation under §§ 501.5 and 501.12 and administrative sanctions under §§ 501.14 and 501.23. Except as otherwise indicated in those sections, the standard of proof shall be the preponderance-of-evidence standard.

§ 501.5 Suspension and revocation of authorization.

(a) The Postal Service may suspend and/or revoke authorization to manufacture and/or distribute any or all of a manufacturer's postage meters if the manufacturer engages in any unlawful scheme or enterprise, fails to comply with any provision in this part 501, or fails to implement instructions issued in accordance with any final decision issued by the Postal Service within its authority over the meter program.

(b) The decision to suspend or revoke a manufacturer's authorization shall be based on the nature and circumstances of the violation (whether

the violation was willful, whether the manufacturer voluntarily admitted to the violation, whether the manufacturer cooperated with the Postal Service, whether the manufacturer implemented successful remedial measures) and on the manufacturer's performance history. Before determining whether a manufacturer's authorization to manufacture and/or distribute meters should be revoked, the procedures in paragraph (c) of this section shall be followed.

(c) Suspension in all cases shall be as follows:

(1) Upon determination by the Postal Service that a manufacturer is in violation of the provisions in this part 501, the Postal Service shall issue a written notice of proposed suspension citing deficiencies for which suspension of authorization to manufacture and/or distribute a specific meter or class of meters may be imposed under paragraph (c)(2) of this section. Except in cases of willful violation, the manufacturer shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the manufacturer has failed to correct cited deficiencies within the specified time limit, the Postal Service shall issue a written notice setting forth the facts and reasons for the decision to suspend and the effective date if a written defense is not presented as provided in paragraph (d) of this section.

(3) If, upon consideration of the defense as provided in paragraph (e) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (c)(4)(iii) of this section.

(4) At the end of the 90-day suspension, the Postal Service may:

(i) Extend the suspension in order to allow more time for investigation or to allow the manufacturer to correct the problem;

(ii) Make a determination to revoke authorization to manufacture and/or distribute the manufacturer's meters in part or in whole; or

(iii) Withdraw the suspension based on identification and implementation of a satisfactory solution to the problem. Manufacturer suspensions may be withdrawn before the end of the 90-day period if the Postal Service determines that the manufacturer's solution and implementation are satisfactory.

(d) The manufacturer may present the Postal Service with a written defense to any suspension or revocation determination within 30 calendar days of receiving the written notice (unless a shorter period is deemed necessary). The defense must include all supporting evidence and state with specificity the reasons for which the order should not be imposed.

(e) After receipt and consideration of the defense, the Postal Service shall advise the manufacturer of the decision and the facts and reasons for it. The decision shall be effective on receipt unless it provides otherwise. The decision shall also advise the manufacturer that it may appeal that determination within 30 calendar days of receiving written notice (unless a shorter time frame is deemed necessary), as specified therein. The appeal must include all supporting evidence and state with specificity the reasons the manufacturer believes that the decision is erroneous.

(f) An order or final decision under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§ 501.6 Specifications.

Postage meters must incorporate all the following features and safeguards:

(a) A postage meter is the postage printing die and postage registering mechanism of a mailing machine. It may be integral with the mailing machine or separable. In either case, the licensee must be able to take the meter to the post office for setting or examination.

(b) A meter may be capable of printing one denomination of postage and registering the number of such impressions made (single denomination), or it may be capable of printing varying denominations and registering either

multiples of the smallest unit printed (multidenomination) or the currency value of the impressions made (omnidenomination). The printing die or dies, counters, and counteractuating mechanism must be inseparable from the meter, except by the manufacturer.

(c) In each meter, there must be two accurate and dependable counting devices: one ascending and registering the total imprinted, the other descending and registering the unused postage balance. The descending register must actuate a locking mechanism that prevents further operation of the meter after the register descends to zero or an amount less than the largest denomination printable in one operation. In electronic meters, the locking device must prevent printing if the amount to be printed reduces the descending register to less than zero. The construction of the descending register must allow the post office to set any amount of postage or number of impressions within its capacity, prepaid by the licensee.

(d) The entire meter must be encased in a substantial housing to which unauthorized access cannot be gained without creating obvious damage. The descending register must be accessible to the post office by a door equipped with a suitable lock and with provision for a post office seal. The requirement that accessibility to the descending register be restricted does not apply to Computerized Remote Postage Meter Resetting System electronic meters that have no access to the descending register of the meter. Descending registers on this type of meter are reset electronically by coded input only. The ascending register and all other components must be so shielded as not to be accessible even when the door is open. The readings of both registers must be easily obtainable at any time between operations, by visibility through closed windows, by imprint on tape or card, or by a combination of the two methods. The construction of the housing must make it impossible to alter the readings of the ascending register except by normal operation or impossible to gain access to the internal components, except for setting the descending register under § 501.20(c), without mutilation.